

REMARKS

In the Office Action dated September 21, 2005, and claims 1-8, 10, 19, 20, and 24 were rejected under 35 U.S.C. § 102 over U.S. Patent No. 6,615,258 (Barry); and claims 9, 11-18, 21-23, and 25-28 were rejected under § 103 over Barry in view of U.S. Patent No. 6,769,009 (Reisman).

### SUMMARY OF INTERVIEW

On December 2, 2005, a telephonic interview was conducted between the Examiner and the undersigned. In the interview, claims 1 and 9 and references Barry and Reisman were discussed. No other exhibits were discussed.

In the telephonic interview, the undersigned argued that no motivation or suggestion existed to combine the teachings of Barry and Reisman, for various reasons, to achieve the invention of claim 9. First, there existed no desirability to incorporate the teachings of Reisman into the system of Barry. Moreover, the teachings of Reisman relate to updating software in a client, whereas Barry describes software in a middle tier of a system. No agreement was reached regarding allowability of claim 9.

With respect to claim 1, a discussion was made regarding adding the last clause of claim 9 into claim 1. The Examiner stated that such an amendment would overcome the § 102 rejection, but the Examiner stated that he would have to perform a further search against such an amended claim 1. No agreement was reached with respect to claim 1.

REJECTIONS UNDER 35 U.S.C. §§ 102 and 103

Claim 9 was rejected as being obvious over Barry and Reisman. Claim 9 has been amended to delete the “and including a customization control” language from the “proxy” element of claim 9, and to insert “a customization control” at line 5 of claim 9. This amendment is intended to broaden the scope of claim 9, since the customization control can now either be considered to be a separate component from the proxy, or alternatively, the customization control can be part of the proxy (included in the proxy).

Also, at line 12, the term “first” was added before “customization module” to improve the form of the claim. This amendment does not change the scope of claim 9.

It is respectfully submitted that a *prima facie* case of obviousness has not been established with respect to claim 9 for at least the following reasons: no motivation or suggestion existed to combine the teachings of Barry and Reisman, and even if they can be combined, the hypothetical combination of Barry and Reisman does not teach or suggest all elements of claim 9. *See* M.P.E.P. § 2143 (8<sup>th</sup> ed., Rev. 3), at 2100-135.

As conceded by the Office Action, Barry fails to teach a customization control to add the second customization module to the interceptor system while the application is running. 9/21/2005 Office Action at 6. Instead, the Office Action relied upon Reisman as disclosing this element. *Id.* The Office Action cited mainly to Fig. 10 of Barry as disclosing the various elements of the interceptor system recited in claim 9. 9/21/2005 Office Action at 2, 6. The Office Action referred to various passages in column 21 of Barry that discusses the Fig. 10 arrangement of Barry. Fig. 10 of Barry discloses a client GUI application front end, including a report requester 212, a report viewer 215, an inbox client 210, and an order entry client 280. Also, Fig. 10 of Barry discloses a middle tier that includes a report manager 250, report scheduler 260, inbox server 270, order entry server 39, and dispatcher 26. The customization modules recited in claim 9 were considered by the Office Action to be disclosed by the “application proxy components” referred to at line 26 of column 21 of Barry. The application proxy components of Barry include a report manager proxy 250’ in the report manager 250 (Barry, 22:5), an inbox proxy 270’ in the inbox server 270 (Barry, 28:50), and a report scheduler proxy 260’ in the report scheduler 260.

Curiously, the Office Action also stated that these proxies disclosed in Fig. 10 of Barry constituted the proxy recited in claim 9. *See* 9/21/2005 Office Action at 3. Therefore, there appears to be an inconsistency in application of Barry to the “proxy” and “customization module” elements recited in claim 9.

Nevertheless, as correctly noted by the Office Action, Barry fails to disclose a customization control to add a second customization module to the interceptor system while the application is running. However, the Office Action erred in stating that claim 9 would be obvious over Barry and Reisman. Reisman does not provide any suggestion to modify the teachings of Barry to achieve the claimed invention. In the rejection of claim 9, the Office Action specifically cited to column 29, lines 8-47, of Reisman as teaching the adding of a second customization module to the interceptor system while the application is running. The cited column 29 passage refers to a software provider being able to use a transporter 14, and integrating the transporter 14 into an authoring package. As stated elsewhere in Reisman, the transporter can recursively update itself. Reisman, 25:61-63. However, it is significant to note that Reisman teaches that its software components are installed at a user’s computer workstation, where the software components include an information transport component or module 14 (the transporter 14). Reisman, 6:45-55. Therefore, any update of the transporter 14 mentioned in Reisman is directed to updating the transporter 14 at the client (user’s computer workstation). Reisman also refers to performing software upgrades, performed by using an additional information object 24 that includes updates that can be integrated with the information product 12 in the user’s workstation depicted in Fig. 1 of Reisman. Reisman, 8:26-31. The software upgrades described in Reisman refer to software upgrades in the client. Thus, although Reisman teaches software upgrades at a client station, Reisman provides absolutely no suggestion of modifying Barry to provide a customization control to add a customization module to an *interceptor system* while the application is running.

Moreover, it is noted that Barry provides no suggestion of any desirability to perform updates of its middle tier while an application is running. *See In re Fritch*, 972 F.2d 1260, 1266, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992) (“The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification.”). Here, neither Barry nor Reisman suggests any

desirability to update any component of the middle tier of Barry while an application is running. Therefore, since no motivation or suggestion existed to combine the teachings of Barry and Reisman, the *prima facie* case of obviousness is defective for at least this reason.

Moreover, the hypothetical combination of Barry and Reisman fails to teach or suggest *all* elements of claim 9. Specifically, neither Barry nor Reisman teaches the customization control to add the second customization module to the interceptor system while the application is running. The Office Action conceded that this element of claim 9 is not taught by Barry. Also, as noted above by the Applicant, Reisman also fails to teach or suggest a customization control to add a customization module to an interceptor system while the application is running. Therefore, since not all elements are taught or suggested by the asserted combination of Barry and Reisman, the *prima facie* case of obviousness is defective for this additional reason.

Claim 1 has been amended to recite the customization repository to store an additional customization module providing another customization, and a control to add the additional customization module to the interceptor system while the application is running. This element was added from former dependent claim 25 (now cancelled). Claim 1 is thus allowable over Barry and Reisman for reasons similar to those stated above with respect to claim 9.

Independent claims 10, 11, 19, and 20 are allowable over Barry and Reisman for similar reasons.

Dependent claims are allowable for at least the same reasons as corresponding independent claims. Allowance of all claims is respectfully requested.

Appln. Serial No. 10/037,107  
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Reply to Office Action Mailed September 21, 2005

Allowance of all claims is respectfully requested. The Commissioner is authorized to charge any additional fees and/or credit any overpayment to Deposit Account No. 08-2025 (10006790-1).

Respectfully submitted,

Date: \_\_\_\_\_

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